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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/566,825	09/05/2006	Edward V. Roscioli	641-01	7884
2746 7590 03/06/2009 WILLIAM H. EILBERG 316 CALIFORNIA AVE. #785 RENO, NV 89509				
EXAMINER A. PHU DIEU TRAN				
ART UNIT 3633		PAPER NUMBER		
NOTIFICATION DATE 03/06/2009		DELIVERY MODE ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

whe@eilberg.com

Office Action Summary**Application No.**

10/566,825

Applicant(s)

ROSCIOLI, EDWARD V.

Examiner

PHI D. A

Art Unit

3633

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18, 20 and 21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18, 20 and 21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/S508)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 7, 13-18, 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Migurski et al (5964065).

Migurski et al discloses a shelter for isolating at least one person from an environment having air, the shelter comprising: an enclosure formed of an air impermeable material and disposable within the environment, the enclosure being configured to define an interior chamber and being expansible from a storage configuration in which the chamber has a minimum volume to a usage configuration in which the chamber has a maximum volume, the maximum volume being of sufficient magnitude to entirely contain at least one person, the enclosure being further configured to contain a quantity of air within the chamber when disposed in the usage configuration and to at least one of substantially prevent entry of the environment air into the enclosure chamber and substantially prevent egress of enclosure air into the environment, a frame configured to maintain the enclosure disposed in the usage configuration, wherein the enclosure includes at least one generally thin and flexible sheet of material formed into a bag, wherein the enclosure has a passage opening sized to permit a person to move between the environment and the enclosure chamber and a cover configured to substantially seal the opening, wherein the enclosure includes at least one sheet of a first flexible material, the first material including a layer of a metallic substance, and at least one sheet of a second flexible material, the

second material being at least generally transparent so as to provide a window, the enclosure is a residence enclosure and further comprising at least one decontamination enclosure connected with the residence enclosure and defining an interior chamber, the enclosure having a first opening extending between the decontamination chamber and the environment and a second opening extending between the chamber and the enclosure chamber.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-6, 8-12, 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Migurski et al (5964065).

Migurski et al shows a shelter system for use within an environment having air, the shelter system comprising: an enclosure disposable within the environment and formed of an air impermeable material, the enclosure being configured to define an interior chamber, to contain a quantity of air within the chamber, and to substantially prevent entry of the environment air into the chamber; wherein the enclosure is configured to expand from a storage configuration to a deployed configuration and to alternatively contract from the deployed configuration to the storage configuration, wherein the room has at least one generally vertical wall and a generally horizontal ceiling and the enclosure is removably connectable with at least one of the wall and the ceiling so as to support the enclosure in the usage configuration, wherein the enclosure

includes a first enclosure section disposable in a first location in the environment, the first enclosure section defining a first chamber section, and a second enclosure section disposable in a second location in the environment spaced from the first location, the two enclosure sections being connected together such that the two chamber sections provide a generally continuous enclosure chamber, wherein the two enclosure sections are removably connected together.

Migurski et al does not show an oxygen generator disposable within the enclosure, the oxygen generator including a chemical oxygen generation device for generating oxygen and being configured to discharge oxygen into the enclosure air; and a carbon dioxide removal device disposable within the enclosure and including an interior chamber and a reactive material disposed within the removal device chamber and configured to remove carbon dioxide from the enclosure air.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Migurski et al's structures to show an oxygen generator disposable within the enclosure, the oxygen generator including a chemical oxygen generation device for generating oxygen and being configured to discharge oxygen into the enclosure air; and a carbon dioxide removal device disposable within the enclosure and including an interior chamber and a reactive material disposed within the removal device chamber and configured to remove carbon dioxide from the enclosure air since it would ensure the fully enclosed structure having sufficient oxygen and not encountering carbon dioxide poisoning.

Per claims 3, 9-10, it would have been obvious to one having ordinary skill in the art at the time of the invention to modify Migurski et al's modified assemblies to show the environment includes a building having a first room and a second room, the enclosure includes a

first section disposable within the first room and a second section connected with the first section and disposable within the second room, the enclosure chamber extending through the two enclosure sections since the fully enclosed structure is meant as an emergency decontaminating enclosure and a person having ordinary skill in the art would have found it obvious to locate the structure the claimed environment as needed.

Per claims 4-5, Migurski et al as modified further shows oxygen generator includes: a housing disposable within the enclosure chamber and having an interior chamber and an opening, the opening extending into the interior chamber and being fluidly connectable with the enclosure chamber; and a quantity of an oxygen-producing material removably disposable within the housing chamber and configured to generate oxygen by spontaneous chemical reaction, the housing being configured such that the oxygen generated by the material flows from the housing chamber, through the housing opening and into the enclosure chamber, the carbon dioxide removal device further includes: a housing bounding the interior chamber and having an inlet fluidly connecting the enclosure chamber with the removal device chamber and an outlet fluidly connecting the device chamber with the enclosure chamber; and a fan connected with the housing and configured to initiate flow of a portion of the enclosure air into the inlet, through the reactive material disposed within the removal chamber, out of the outlet and back to enclosure chamber.

Per claims 6, 12, it would have been obvious to one having ordinary skill in the art at the time of the invention to modify Migurski et al's modified assemblies to show the environment includes a vehicle having an interior chamber and the enclosure is disposed within the vehicle chamber since the fully enclosed structure is meant as an emergency decontaminating enclosure

and a person having ordinary skill in the art would have found it obvious to locate the structure wherever it is needed.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art shows different enclosure designs.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phi D A whose telephone number is 571-272-6864. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Glessner can be reached on 571-272-6843. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Phi D A/
Primary Examiner, Art Unit 3633

Phi Dieu Tran A

3/2/09